

Amendment No. 3 to SB1778

Dickerson
Signature of Sponsor

AMEND Senate Bill No. 1778*

House Bill No. 1830

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 7-4-101(4), is amended by deleting the language "motel" and substituting instead the language "motel, short-term rental unit".

SECTION 2. Tennessee Code Annotated, Section 7-4-101, is amended by adding the following appropriately designated subdivisions:

() "Short-term rental unit marketplace" means any person or entity that provides a platform for compensation, through which a third party offers to rent a short-term rental unit to an occupant;

() "Residential dwelling" means a cabin, house, or structure used or designed to be used as an abode or home of a person, family, or household, and includes a single-family dwelling, a portion of a single-family dwelling, or an individual residential dwelling in a multi-dwelling building, such as an apartment building, condominium, cooperative, or timeshare;

() "Short-term rental unit" means a residential dwelling that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days and does not include a hotel as defined in § 68-14-302 or a bed and breakfast establishment or a bed and breakfast homestay as those terms are defined in § 68-14-502;

SECTION 3. Tennessee Code Annotated, Section 7-4-103, is amended by designating the existing language as subsection (a) and adding the following language as subsection (b):

(b) Notwithstanding this part to the contrary, on or after January 1, 2021, the tax, when levied upon the occupancy of a short-term rental unit secured through a short-term

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rental unit marketplace, must be collected and remitted in accordance with title 67, chapter 4, part 33.

SECTION 4. Tennessee Code Annotated, Section 7-4-202, is amended by adding the following new subsection:

(e) Notwithstanding this part to the contrary, on or after January 1, 2021, the tax levied pursuant to this section, when levied upon the occupancy of a short-term rental unit secured through a short-term rental unit marketplace, must be collected and remitted in accordance with title 67, chapter 4, part 33.

SECTION 5. Tennessee Code Annotated, Section 13-7-602, is amended by adding the following as a new subdivision:

() "Transferred" means:

(A) An interest in real estate was conveyed on or after May 17, 2018; and

(B) The conveyance is exempt from the recordation tax pursuant to § 67-4-409(a)(3)(A)(i) and (a)(3)(E)-(F).

SECTION 6. Tennessee Code Annotated, Section 67-4-1401(2), is amended by deleting the language "motel" and substituting instead the language "motel, short-term rental unit".

SECTION 7. Tennessee Code Annotated, Section 67-4-1401, is amended by adding the following new appropriately designated subdivisions:

() "Short-term rental unit marketplace" means any person or entity that provides a platform for compensation, through which a third party offers to rent a short-term rental unit to an occupant;

() "Residential dwelling" means a cabin, house, or structure used or designed to be used as an abode or home of a person, family, or household, and includes a single-family dwelling, a portion of a single-family dwelling, or an individual residential dwelling in a multi-dwelling building, such as an apartment building, condominium, cooperative, or timeshare;

() "Short-term rental unit" means a residential dwelling that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days and does not include a hotel as defined in § 68-14-302 or a bed and breakfast establishment or a bed and breakfast homestay as those terms are defined in § 68-14-502;

SECTION 8. Tennessee Code Annotated, Section 67-4-1405, is amended by adding the following as a new subsection:

(c) Notwithstanding this part to the contrary, on or after January 1, 2021, the tax levied pursuant to this part, when levied upon the occupancy of a short-term rental unit secured through a short-term rental unit marketplace, must be collected and remitted in accordance with chapter 4, part 33 of this title.

SECTION 9. Tennessee Code Annotated, Title 67, Chapter 4, Part 14, is amended by adding the following as a new section:

67-4-1426.

Notwithstanding any law to the contrary, on or after January 1, 2021, tax levied upon the privilege of occupancy of a short-term rental unit secured through a short-term rental unit marketplace, pursuant to any private act, must be collected and remitted in accordance with title 67, chapter 4, part 33.

SECTION 10. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following new part:

67-4-3301. As used in this part:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a short-term rental unit valued in money, whether to be received in

money, goods, labor or otherwise, including all receipts, cash, credits, property, and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition implies that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(2) "Department" means the department of revenue;

(3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings, or accommodations in a short-term rental unit;

(4) "Residential dwelling" means a cabin, house, or structure used or designed to be used as an abode or home of a person, family, or household, and includes a single-family dwelling, a portion of a single-family dwelling, or an individual residential dwelling in a multi-dwelling building, such as an apartment building, condominium, cooperative, or timeshare;

(5) "Short-term rental unit" means a residential dwelling that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days and does not include a hotel as defined in § 68-14-302 or a bed and breakfast establishment or a bed and breakfast homestay as those terms are defined in § 68-14-502;

(6) "Short-term rental unit marketplace" means any person or entity operating in this state that provides a platform for compensation, through which a third party offers to rent a short-term rental unit to an occupant;

(7) "Short-term rental unit provider" means any person or entity engaged in renting any short-term rental unit offered through a short-term rental unit marketplace;

(8) "Short-term rental unit transaction" means any transaction in which there is a charge to an occupant by a short-term rental unit provider for the occupancy of a short-term rental unit; and

(9) "Transient" means any person who exercises occupancy or is entitled to occupancy of any short-term rental unit for a period of less than thirty (30) continuous days.

67-4-3302.

(a) A short-term rental unit marketplace shall register with the department for the collection and remittance of all the following taxes with respect to the consideration charged for the occupancy of a short-term rental unit:

- (1) The privilege tax imposed pursuant to title 7, chapter 4, part 1;
- (2) The privilege tax imposed pursuant to title 7, chapter 4, part 2;
- (3) The privilege tax imposed pursuant to title 67, chapter 4, part 14; and
- (4) Any privilege tax on the occupancy of a room provided by any hotel, motel, or similar establishment to a transient for a consideration, where the tax is imposed pursuant to a private act.

(b) Any tax collected pursuant to subsection (a) must be collected by the short-term rental unit marketplace and remitted to the department, in the same manner as provided by chapter 6 of this title with respect to sales and use tax. The tax collected pursuant to subsection (a) must be collected at the rate adopted by the city, county, or metropolitan government.

67-4-3303. For purposes of this part:

(1) A short-term rental unit marketplace shall, with respect to each short-term rental unit transaction facilitated by the short-term rental unit marketplace, collect and remit the taxes set out in § 67-4-3302(a), even if the transaction is occasional or isolated as contemplated in § 67-6-102(8)(B);

(2) A short-term rental unit marketplace shall report its taxes collected pursuant to § 67-4-3302(a) on a monthly basis and remit the aggregate total amounts for each respective jurisdiction for each month;

(3) Taxes payable by a short-term rental unit marketplace in accordance with § 67-4-3302(a) are subject to audit only by the department at the commissioner's sole discretion. Audits of a short-term rental unit marketplace must be conducted solely on the basis of the tax identification number associated with each short-term rental unit marketplace and shall not be conducted directly or indirectly on any individual short-term rental unit provider or any transient to whom short-term rental units are furnished. An audit described in this subdivision (3) must be conducted on the basis of returns filed by the short-term rental unit marketplace with the department, and if requested by the short-term rental unit marketplace, must include all tax types for which the short-term rental unit marketplace is required to collect and remit pursuant to § 67-4-3302(a); and

(4) If a short-term rental unit marketplace is required to disclose any personally identifiable information relating to any short-term rental unit provider or transient to whom a short-term rental unit is furnished, such information is confidential pursuant to § 67-1-1702.

67-4-3304. A short-term rental unit marketplace shall not advertise or state in any manner, whether directly or indirectly, that any tax set out in § 67-4-3302(a)(1)-(4), in whole or in part, will be assumed or absorbed by the short-term rental unit provider, not be added to the occupancy, or be refunded.

67-4-3305. A short-term rental unit marketplace that collects the taxes set out in § 67-4-3302(a) is subject to the administration and enforcement provisions in chapter 6, parts 4 and 5 of this title.

67-4-3306. The department shall distribute the taxes collected pursuant to this part on a monthly basis to the applicable local governing body in which the short-term rental unit was located and for which the tax was collected. The department may deduct an administration fee of one and one hundred twenty-five thousandths percent (1.125%) of the collected tax to cover its expenses of administering the collection and distribution of the tax.

67-4-3307. The department may promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, not inconsistent with this chapter, other laws, or the constitution of this state or the United States, for the enforcement of this chapter and the collection of revenues under this chapter.

67-4-3308. This part is not applicable when, upon the effective date of this act, a local governing body is a party to a valid contract that includes terms related to the collection and remittance of the taxes set out in § 67-4-3302(a), with a short-term rental unit marketplace. This section applies only while the contract, or any successor agreement, remains valid and effective. If the contract terminates and no successor agreement is executed, then the taxes must be collected and remitted in accordance with this part.

67-4-3309.

Annually, on a date determined by the department and on a form created and provided by the department, every local government that imposes a tax set out in § 67-4-3302(a)(1)-(4) shall certify and report to the department the tax rate imposed by the local government. In the event of changes to the rate, the local government shall notify the department, in the manner prescribed by the department. The department shall collect the rate information and make the information accessible to the public.

SECTION 11. Tennessee Code Annotated, Section 67-5-801(b), is amended by designating the existing language as subdivision (1) and adding the following new subdivision (2):

(2) Notwithstanding subdivision (b)(1), when a parcel of real property is the principal residence of its owner, contains not more than one (1) rental unit, and is used as a short-term rental unit, as defined by § 13-7-602, the assessor of property should presume the classification of the property is residential.

SECTION 12. Section 5 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to any local governmental action, including assessment of

property for taxation purposes, occurring on or after August 1, 2020. All other sections of this act shall take effect January 1, 2021, the public welfare requiring it.